

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANKE BORCK,

Case No: 1:16-cv-326

Plaintiff,
v.

Dlott, J.
Bowman, M.J.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff Anke Borck filed this Social Security appeal to challenge the Defendant's non-disability finding. See 42 U.S.C. §405(g). On September 16, 2016, the Court granted the parties' joint motion to remand under sentence four of 42 U.S.C. §405(g). (Doc. 12).

On December 8, 2016, the parties filed a Stipulation to an award of \$1,485.00 in attorney's fees and costs pursuant to the Equal Access for Justice Act ("EAJA"). (Doc. 14). The parties' stipulation suggests that, "if" counsel can verify that Plaintiff owes no pre-existing debt to the United States that is subject to offset, then Defendant will direct that the award be made payable to Plaintiff's attorney pursuant to the attorney's fee assignment signed by Plaintiff.

A consensus of decisions within the Sixth Circuit hold that "[u]nder *Ratliff*, the proper course is to award fees directly to Plaintiff and remain silent as to the direction of those fees." *Oliver v. Com'r of Soc. Sec.*, 916 F.Supp.2d 834, 836-838 (S.D. Ohio 2013)(collecting cases and quoting *Cornell v. Com'r of Soc. Sec.*, 2:11-cv-97, 2012 U.S. Dist. LEXIS 6115, at *6-7 (S.D. Ohio May 2, 2012)); see also *Cox v. Astrue*, 917 F.

Supp.2d 659 (E.D. Ky. 2013)(holding that under *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010), fees should be paid to litigants regardless of whether the Commissioner shows that the plaintiff owes a federal debt or not). The fee award made by this Court neither bars the United States from honoring a valid assignment, nor prevents it from disputing it.

Accordingly, it is **RECOMMENDED THAT** pursuant to the parties' stipulation (Doc. 14), Plaintiff be awarded the total sum of \$1,485.00 in attorney's fees and costs under the Equal Access to Justice Act ("EAJA").

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN (14) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).